

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHAD CHARLES BILLS,

Defendant-Appellant.

UNPUBLISHED

April 22, 2014

No. 313781

St. Clair Circuit Court

LC No. 12-000160-FH

Before: HOEKSTRA, P.J., and SAWYER and GLEICHER, JJ.

PER CURIAM.

This case arises from the burglary of Patrice and Glen Lottner’s home on October 31, 2011. Items stolen included jewelry that Patrice estimated was worth at least \$25,000, two laptop computers, a rifle, and a Sony digital camera. Defendant was arrested in connection with the burglary and charged with receiving and concealing stolen property between \$1,000 and \$20,000, MCL 750.535(3)(a); first-degree home invasion, MCL 750.110a(2); larceny of a firearm, MCL 750.357b; possession of a weapon by a felon, MCL 750.224f; and possession of a firearm during the commission of a felony, MCL 750.227b. Following a jury trial, defendant was convicted of receiving and concealing stolen property, and acquitted of all the other charges. Defendant was sentenced as a fourth-offense habitual offender, MCL 769.12, to two to 10 years’ imprisonment. Defendant now appeals his conviction as of right, arguing that there was insufficient evidence to support his conviction of receiving and concealing stolen property. Because we conclude that there was sufficient evidence for a rational jury to find defendant guilty beyond a reasonable doubt, we affirm.

On appeal, defendant specifically argues that there was insufficient evidence to support his receiving and concealing stolen property conviction because the evidence could not establish that he knew or had reason to know that the property was stolen when he received and possessed it.

We review sufficiency of the evidence issues de novo, examining the evidence in a light most favorable to the prosecution, to determine whether a rational trier of fact could have found that every essential element was proven beyond a reasonable doubt. *People v Ericksen*, 288 Mich App 192, 195-196; 793 NW2d 120 (2010). We “draw all reasonable inferences and make credibility choices in support of the jury verdict.” *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). It is up to the finder of fact to make decisions about the credibility of

witnesses and the probative value of evidence. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). “Circumstantial evidence and reasonable inferences drawn from it may be sufficient to establish the elements of a crime.” *People v Fennell*, 260 Mich App 261, 270; 677 NW2d 66 (2004).

To prove the crime of receiving and concealing stolen property valued at more than \$1,000 but less than \$20,000, the prosecution must establish the following elements:

(1) the property was stolen; (2) the value of the property met the statutory requirement; (3) defendant received, possessed, or concealed the property with knowledge that the property was stolen; (4) the identity of the property as being that previously stolen; and (5) the guilty actual or constructive knowledge of the defendant that the property received or concealed was stolen. [*People v Pratt*, 254 Mich App 425, 427; 656 NW2d 866 (2002).]

In this case, defendant challenges only the sufficiency of the evidence in regard to his knowledge of the property’s stolen nature. “Guilty knowledge generally cannot be proved by direct evidence; by its very nature, it must usually be inferred from all of the circumstances of the case.” *People v Salata*, 79 Mich App 415, 421; 262 NW2d 844 (1977). Factors that have supported the inference of guilty knowledge include a defendant’s possession of the property shortly after its theft, changes in the condition of the property, alteration of the property, a price that is inconsistent with the value of the property, and the lack of a reasonable explanation by the defendant regarding his possession of the property. *Id.* at 421-422.

The evidence in this case demonstrated that the Lottner’s home, located in St. Clair Township in St. Clair County, was empty from 6:30 a.m. until 3:30 p.m. on the day of the burglary. After defendant’s cousin, Mark Bills, called Patrice and told her that he had one of her laptops, and subsequent police questioning of Mark revealed that he obtained the laptop from defendant who requested that Mark “unlock” and “clean” the laptop, the police investigation focused on defendant’s possible involvement in the burglary.¹ Thereafter, Detective Stacy Tunich obtained defendant’s cellular telephone records, and discovered that defendant’s telephone “pinged” off a tower at 12:16 p.m. on the day of the burglary. The location of the “ping” showed that defendant’s telephone was within four miles of the victims’ residence. However, when Tunich interrogated defendant about the burglary, he claimed he was not in St. Clair County that day. Defendant told Tunich that he found the laptop in a grill while removing debris from an abandoned house in Marysville on November 1, 2011, the day after the burglary.²

After the interrogation, Tunich executed a search warrant for defendant’s vehicle in the police station parking lot and discovered a Sony digital camera, later identified as the camera taken from the Lottner’s home, and a receipt indicating the sale of jewelry consistent with some

¹ We note that at trial there was a dispute between the testimony of Mark and the police officers regarding whether Mark told police that defendant indicated that he wanted the laptop “cleaned.”

² According to Google Maps, Marysville is only about 2.5 miles from the victims’ residence.

of the jewelry that was reported stolen by the Lottners at the Buy Gold Center on October 31, 2011. The Buy Gold Center that issued the receipt found in defendant's car was located in Imlay City.³ The receipt indicated that defendant sold the jewelry for \$570, and testimony established that amount was about ten percent of what the jewelry was worth. Tunich interrogated defendant a second time, and this time defendant claimed that he found the camera and some jewelry with the laptop at the abandoned house in Marysville. During trial, defendant testified that he was mistaken about the date that he was working at the home in Marysville, and that he was actually there on October 31, 2011.

From the evidence and the reasonable inferences that can be drawn from the evidence, we conclude that a rational jury could find beyond a reasonable doubt that defendant possessed with knowledge that they were stolen the laptop, camera, and jewelry that were taken in the burglary of the Lottner's home. Most incriminating is the evidence that defendant's cellular telephone records place him near the victims' home at a time when the burglary could have been accomplished, which is contrary to defendant's initial statement to police that he was not anywhere in St. Clair County on the day of the burglary. Also, incriminating was the evidence showing that defendant sold gold jewelry at a price well below market value on the same day that gold jewelry was taken in the burglary. Further evidence of guilt can be drawn from the fact that defendant also changed his explanation for his possession of the stolen laptop and camera. Moreover, even though, as argued by defendant, some testimony at trial supported defendant's version of the events, this fact does not render the evidence in support of his conviction insufficient. The jury was free to make its own determinations regarding the credibility of witnesses and the probative value of evidence. *Wolfe*, 440 Mich at 514-515.

Affirmed.

/s/ Joel P. Hoekstra
/s/ David H. Sawyer
/s/ Elizabeth L. Gleicher

³ According to Google Maps, Imlay City is about 38 miles from the victims' residence.